

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ALLAN SABRA FOX,

Defendant-Appellant.

UNPUBLISHED

September 30, 2004

No. 247389

Muskegon Circuit Court

LC No. 02-047902-FH

Before: Borrello, P.J., and Murray and Fort Hood, JJ.

MEMORANDUM.

Defendant appeals as of right his conviction of possession of less than twenty-five grams of methadone, MCL 333.7403(2)(a)(v), entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

A police officer believed that defendant, with whom he was familiar, had missed a court appearance, and ran a Law Enforcement Information Network (LEIN) check for the name “Allan Fox.” The inquiry returned a “warrant hit” for “Jeffrey Fox,” and indicated that one of several aliases for Jeffrey Fox was Allan Sabra Fox. The officer confirmed the existence of the warrant, and placed defendant under arrest. As defendant was being handcuffed, a bottle containing two pills fell from his hand. Defendant indicated that Jeffrey Fox was his brother, and while he denied that he had used Jeffrey’s name at any time, he admitted that Jeffrey had used his name in the past. The trial court denied defendant’s motion to dismiss the case.

We review a trial court’s decision to dismiss a charge on legal grounds de novo, *People v Owen*, 251 Mich App 76, 78; 649 NW2d 777 (2002), and review findings of fact for clear error. MCR 2.613(C).

The constitutional validity of an arrest depends on whether probable cause existed for the arrest at the time it was made. Probable cause requires only a probability or a substantial chance of criminal activity, not an actual showing of criminal activity. *People v Lyon*, 227 Mich App 599, 611; 577 NW2d 124 (1998). A police officer is entitled to rely on LEIN information as a basis for an arrest. *People v Freeman*, 240 Mich App 235, 236-237; 612 NW2d 824 (2000).

Defendant argues that the trial court erred by denying his motion to dismiss the case on the ground that his arrest was constitutionally invalid because the officer lacked probable cause to arrest him. We disagree and affirm defendant’s conviction. The officer knew defendant as

Allan Sabra Fox. The LEIN check revealed an outstanding warrant for a person identified as Jeffrey Fox; however, the check indicated that the name Allan Sabra Fox was an alias for Jeffrey Fox. The physical description of Jeffrey Fox was similar to defendant's description. Furthermore, the state identification number was the same for Jeffrey Fox as it was for Allan Fox. The officer indicated that he did not believe that the same identification number could be assigned to separate individuals. The trial court correctly found that the officer acted reasonably in determining that the warrant revealed by the LEIN check was for defendant. MCR 2.613(C); *Lyon, supra*. The officer was entitled to rely on the warrant as the basis for arresting defendant. *Freeman, supra*; *People v Bell*, 74 Mich App 270, 275-277; 253 NW2d 726 (1977). No error occurred.

Affirmed.

/s/ Stephen L. Borrello
/s/ Christopher M. Murray
/s/ Karen M. Fort Hood